

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4707 OF 2004

Mr.K.S. Dawal for the Petitioner.

Mr.D.N.Salvi & Smt.S.J. Patwardhan for Respondents
Nos. 1 to 4.

Office Notes, Office
Memoranda of Coram,
appearances, Court's
order or directions

Court's or Judge's
orders

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CORAM: D.K.DESHMUKH, J.

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DATED: 17TH AUGUST, 2005

P.C.:

1. The reason that has been given by the Petitioner for not remaining present in court on 11-2-1999 when the appeal was dismissed for default is incapable of being accepted. The behaviour of the Petitioner is unnatural. If he had engaged a lawyer and had given him proper instructions and still the lawyer did not appear in the court, then the first reaction of any litigant is to contact the lawyer to find out from him why he did not appear in

court and why he has not informed the date of hearing to the client.

2. Admittedly, the Petitioner never tried to find out from his lawyer as to why he did not remain present in court and why he has not informed the date of hearing to him. Only inference that can be drawn from the conduct of the Petitioner is that he had not instructed the lawyer and probably had not paid to him. The allegation made against the lawyer appears to be incorrect and false.

3. In this view of the matter, therefore, in my opinion, entertaining this petition will amount to encouraging such conduct on behalf of the Petitioner. Petition is, therefore, rejected.

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